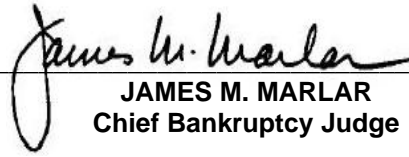


SIGNED.



Dated: September 22, 2010


JAMES M. MARLAR
Chief Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

In re:)	Chapter 11
FIRST MAGNUS FINANCIAL)	No. 4:07-bk-01578-JMM
CORPORATION,)	Adversary No. 4:09-ap-00211-JMM
Debtor.)	MEMORANDUM DECISION
LARRY LATTIG, LITIGATION)	(Nathan Wright, Mark Yonan and Wright &
TRUSTEE FOR THE FIRST MAGNUS)	Yonan, PLLC Summary Judgment. Counts
LITIGATION TRUST,)	39-41, 43-49, 51, 52, 56 and 57.)
Plaintiffs,)	
vs.)	
STONEWATER MORTGAGE)	
CORPORATION; et al.)	
Defendants.)	

Before the court is the motion for summary judgment filed by Defendants Nathan Wright, Mark E. Yonan and Wright & Yonan, PLLC (ECF No. 235). These individuals, and their newly-created law firm Wright & Yonan, PLLC, were sued by the Plaintiff on the following counts, under the following theories:

<u>Count 39</u>	Against Mr. Yonan. Alleging a RICO "enterprise," participated in by Mr. Yonan to acquire Debtor's proprietary assets (previously dismissed).
<u>Count 40</u>	Against Mr. Yonan. 18 U.S.C. § 1962(c) (previously dismissed).

Count 41 Against Mr. Yonan, Wright & Yonan, PLLC and Mr. Wright.
Misappropriation of Debtor's assets, specifically its software.

Count 43 Against Mr. Yonan and Mr. Wright. Conversion of the Debtor's
property and breach of fiduciary duty.

Count 44 Against Mr. Yonan and Mr. Wright. Fraud (previously
dismissed).

Count 45 Against Wright & Yonan, PLLC. Unjust enrichment (same
acts).

Count 46 Against Wright & Yonan, PLLC. Constructive trust remedy.

Count 47 Against Mr. Yonan and Mr. Wright. Conspiracy (same acts).

Count 48 Against Wright & Yonan, PLLC. Aiding and abetting breach of
fiduciary duty.

Count 49 Against Wright & Yonan, PLLC. Misappropriation of the E-
Closer system.

Count 51 Against Mr. Wright. Breach of fiduciary duty in a scheme to
deprive Debtor of the E-Closer system.

Count 52 Against Mr. Wright. Fraud (previously dismissed).

Count 56 Against Wright & Yonan, PLLC. Civil conspiracy (same acts).

Count 57 Against Mr. Wright and Wright & Yonan, PLLC. Aiding and
abetting breach of fiduciary duty (same acts).

The Plaintiff has not responded to the motion for summary judgment by these Defendants.

Messrs. Wright and Yonan, as well as their new law firm, argue, in essence, that the legal form which were offered to them by First Magnus' counsel, some of which were contained on commercially-available software known as WorlDox, were not proprietary to First Magnus, or if they were, had no significant value. In addition, they were only offered copies, and the original software remained with the Debtor.

On the value issue, which means "damages," the Plaintiff has produced nothing in response to the motion to indicate how the Debtor was harmed by the events in question. It would

1 have been prudent for the Plaintiff to have produced at least one affidavit, from an attorney-expert,
2 that what was openly conveyed to Messrs. Wright and Yonan had value to the estate. But he failed
3 to do so.

4 Mr. Lattig, the Litigation Trustee and Plaintiff, has failed to demonstrate why
5 summary judgment should not be granted in favor of these Defendants.

6 Accordingly, the motion for summary judgment filed by Messrs. Wright and Yonan
7 and their new firm, Wright & Yonan, PLLC as to the claims presented against them in Counts
8 39-41, 43-49, 51, 52, 56 and 57 shall be GRANTED, and those claims shall be DISMISSED, with
9 prejudice. A separate judgment will enter, with Rule 54(b) language.

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11 DATED AND SIGNED ABOVE.

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13 COPIES to be sent by the Bankruptcy Notification
14 Center ("BNC") to all parties to this adversary proceeding.
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